

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1248 OF 2005

IN

S.C.SUIT NO.1222 OF 1997

Hazoor Singh Kalra. .Plaintiff.

V/s.

Onkar Singh Kalra. . .Defendant.

Mr. N.V.Moye for plaintiff.

Mr.Mohan Bir Singh for defendant/applicant.

**CORAM: A.M.KHANWILKAR, J**

**DATE : OCTOBER 3, 2005.**

**P.C. :**

1. As plaintiff has appeared through counsel and waived notice of this application, affidavit of service is dispensed with.

2. This application is resisted by the plaintiff on the assertion that the defendant is responsible for the delay and for no progress made by the Commissioner, in spite of the indulgence shown under order dated 20th June, 2005. It is stated that the hearing before the Commissioner was required to be adjourned on account of defendant dated 13th July, 2005 and also 15th July, 2005. On these dates, matter was adjourned by the Commissioner because of

the nonavailability of the advocate of defendant. However, for the other dates, when the matter was before the Commissioner, no fault can be found with the defendant. In other words, it is not possible to take a view that the defendant is solely responsible for the delay in conclusion of recording of examination in chief, as per order dated 20th June, 2005.

3. In my opinion, in the interest of justice, four weeks further time is granted to the defendant to conclude examination in chief, failing which, the Commissioner may be well advised to treat the evidence of defendant as closed and proceed with the cross-examination of the concerned witness in terms of order passed by this court, providing six months time to the plaintiff in that behalf.

4. Chamber summons is disposed of on the above terms.